

# MEMORANDUM

October 11, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: TIGHE F. HUDSON  
Principal Deputy County Counsel  
General Litigation Division

JOHN COLLINS, ESQ.  
Collins, Collins, Muir, and Stewart

RE: Helga Wurm v. County of Los Angeles  
Pasadena Superior Court Case No. GC 036657

DATE OF  
INCIDENT: December 8, 2004

AUTHORITY  
REQUESTED: \$37,500

COUNTY  
DEPARTMENT: Department of Public Works

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## CLAIMS BOARD ACTION:



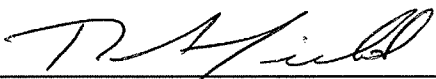
Approve



Disapprove



Recommend to Board of  
Supervisors for Approval



ROCKY A. ARMFIELD

, Chief Administrative Office



JOHN F. KRATTLI

, County Counsel



MARIA M. OMS

, Auditor-Controller

on November 6, 2006

## SUMMARY

This is a recommendation to settle for \$37,500, the dangerous condition lawsuit of Helga Wurm. The litigation arises from the personal injuries Ms. Wurm sustained in an automobile accident which occurred on December 8, 2004.

## LEGAL PRINCIPLE

The County may be held liable for injuries caused or contributed to by a dangerous condition of County roadways and property.

## SUMMARY OF FACTS

This action arises out of a single vehicle accident which occurred in the early morning hours of December 8, 2004, on a curve of Angeles Forest Highway, approximately four miles north of its intersection with Angeles Crest Highway in unincorporated County territory.

Angeles Forest Highway is a two lane County highway that serves as an alternate access route between the Antelope Valley and the Glendale/Pasadena area. It runs essentially in a north-south direction, north leading to the Antelope Valley area and south leading to Pasadena. It is a mountain road with numerous vertical and horizontal road curves and curvilinear alignment. This road carries moderate traffic volume consisting primarily of commuter traffic in the morning and late afternoon hours. The posted regulatory speed limit is 50 miles per hour.

Ms. Wurm and nine fellow workers at Jet Propulsion Laboratory/California Institute of Technology ("JPL") were passengers in a 2003 Ford E-350 10-passenger van and enroute to work in Pasadena, when the van left the single lane of the southbound side of the Angeles Forest Highway and went over the embankment and down the ravine several hundred feet, resulting in three fatalities and six severe injuries. The California Highway Patrol investigated the accident and determined that driver neglect was the cause of the accident.

The van left the roadway at the beginning of a moderate curve with a southerly downgrade for southbound traffic. The road is signed with a W-14 winding road sign approximately one mile north of the accident location. Some locations have additional curve warning and speed advisory signs. The subject curve is not signed with these warnings. This is an unlit stretch of roadway. The subject curve has no history of prior embankment accidents.

Ms. Wurm, 49 years of age, sustained serious and disabling personal injuries in the accident, including the loss of an eye and cervical spine fracture, necessitating extensive hospitalization and several back surgeries.

She brought this suit against the County of Los Angeles, and in a related case sued Javier Bautista, the driver of the van, as well as Enterprise Rental, the owner of the van, among others. As to the County, she has alleged that the roadway was a dangerous condition and lacked necessary and appropriate safety features and controls, including an embankment guardrail, all of which contributed to the accident.

## DAMAGES

If the matter proceeds to trial, Ms. Wurm will likely seek the following:

For past medical treatment	\$ 480,000
For future medical treatment	\$ 400,000
For loss of earnings and earning capacity, past and present	\$ 750,000
For general damages (including pain, suffering and non-economic damages)	<u>\$ 2,000,000</u>
Total	\$ 3,630,000

The proposed settlement calls for the County to pay Ms. Wurm a total of \$37,500 on condition that the Court approve this disposition as a good faith settlement pursuant to Code of Civil Procedure section 877, which immunizes the County from any liability to indemnify non-settling defendants.

## STATUS OF CASE

Ms. Wurm is the only occupant of the van that has filed a dangerous condition case against the County. A total of nine related lawsuits have been brought by the accident victims against persons and entities other than the County. The Court has now consolidated all related cases in one action. Discovery is now proceeding in this consolidated action.

The defendant driver has a \$15,000/\$30,000 insurance policy. Enterprise Rental has a \$5,000,000 single limit policy as well.

Expenses incurred by the County in defense of this matter are attorneys' fees in the amount of \$23,442 and costs in the amount of \$3,503.

## EVALUATION

There is little merit to the allegations of dangerous condition of public property. We believe that the traffic controls at the incident location were reasonable and appropriate, that a guardrail was not necessary, and that the adjacent dirt shoulder provided motorists an adequate clear zone in conformance with all appropriate traffic engineering practices. Also, it appears that driver neglect was the sole cause of the accident.

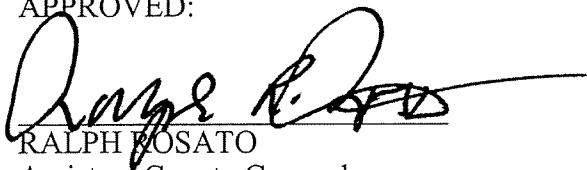
This notwithstanding, the Court has now consolidated all JPL accident cases. This includes the nine related cases and the Wurm litigation. While suit has been brought against County by only one of the accident victims, County is a cross-defendant in numerous cases on claims of equitable indemnification brought by other defendants. Clearly, consolidation has made the County's defense of this lawsuit significantly more involved and costly. The cost of defense, specifically as against the claims of equitable indemnification, will substantially exceed the amount of this settlement. Additionally, there always remains a risk that County could be found 1% at fault, which would trigger a liability substantially in excess of the amount of this settlement

The Court has already determined this settlement to be in good faith, contingent on Claims Board approval. The order of good faith disposes of the Wurm claim and most importantly terminates all claims of equitable indemnification, effectively removing the County from any further involvement in the litigation surrounding the JPL accident.

## RECOMMENDATION

We believe this disposition is in the best interests of the County and join with our private counsel, Collins, Collins, Muir, and Stewart, and our third party administrator, Carl Warren and Company, in recommending settlement in the amount of \$37,500. The Department of Public Works concurs with this settlement.

APPROVED:



RALPH ROSATO  
Assistant County Counsel  
General Litigation Division

TFH:ac